

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/652,640	ABE, JOHN R.	
	Examiner Thomas A. Dixon	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 21 July 2006.
2.  The allowed claim(s) is/are 1-5 and 15-37.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

Thomas A. Dixon  
Primary Examiner  
Art Unit: 3628

## DETAILED ACTION

1. The rejections of Claims 17 and 18, rejected under 35 U.S.C. 101 are withdrawn, despite applicant's arguments to the preambles, which are not persuasive, the last line of the claim is "utilizing the processor of a computer system," which is seen to transform the "logic for" of the system and the "code for" on the readable medium from code perse into "executable" code, which is statutory.
2. The rejections of claims 1, 17 and 18 under 35 U.S.C. 102 are withdrawn, applicant's arguments are convincing, an updated search revealed Li et al (7,043,449) which discloses price-frequency distribution of prices, see figures 6A-6B, but does not teach storing a number of competitors or business objectives including those claimed or calculating an optimal price based on the claimed elements.

Delurgio et al (6,553,352) discloses optimizing prices, but does not teach storing a distribution of prices or business objectives including those claimed or calculating an optimal price based on the claimed elements.

Phillips et al (2002/0116348) discloses dynamic pricing including sales forecasts for the changes in price, but does not teach storing a number of competitors, distribution of prices or business objectives including those claimed or calculating an optimal price based on the claimed elements.

### ***Allowable Subject Matter***

3. Claims 1-5, 15-37 are allowed.
4. The following is an examiner's statement of reasons for allowance:

As per Claims 1, 17 and 18.

The prior art of record, specifically, Reuhl et al (5,873,069), Li et al (7,043,449), Delurgio et al (6,553,352), or Phillips et al (2002/0116348) does not disclose or fairly teach:

receiving via an input device of the computer system a price-frequency mathematical distribution of prices associated with at least one non-optimized supplier;

storing the distribution of prices in the memory of the computer system;

receiving via the input device of the computer system a number of competitors, a business objective and a cost associated with a good or service;

storing the number of competitors, business objective, and cost associated with the good or service in the memory of the computer system;

calculating an optimal price based on the selected non-optimized prices, the number of competitors, business objective and cost associated with the good or service, wherein

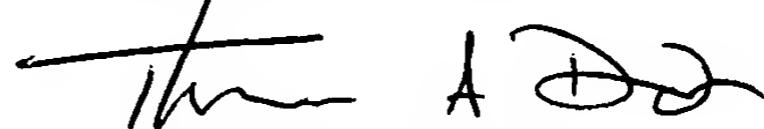
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas A. Dixon  
Primary Examiner  
Art Unit 3628

November 06